

**§ 2679a. Procurement contracts****(a) Funding for periods not in excess of five years; conditions**

Any contract for the procurement of property or services, or both, for the Department of State or the Foreign Service which is funded on the basis of annual appropriations may nevertheless be made for periods not in excess of 5 years when—

(1) appropriations are available and adequate for payment for the first fiscal year and for all potential cancellation costs; and

(2) the Secretary of State determines that—

(A) the need of the Government for the property or service being acquired over the period of the contract is reasonably firm and continuing;

(B) such a contract will serve the best interests of the United States by encouraging effective competition or promoting economies in performance and operation; and

(C) such a method of contracting will not inhibit small business participation.

**(b) Cancellation of contracts**

In the event that funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be cancelled and any cancellation costs incurred shall be paid from appropriations originally available for the performance of the contract, appropriations currently available for the acquisition of similar property or services and not otherwise obligated, or appropriations made for such cancellation payments.

(Aug. 1, 1956, ch. 841, title I, § 14, as added and renumbered title I, Pub. L. 97-241, title I, § 121, title II, § 202(a), Aug. 24, 1982, 96 Stat. 280, 282.)

**PRIOR PROVISIONS**

A prior section 2679a, acts Aug. 1, 1956, ch. 841, § 14, as added Oct. 26, 1974, Pub. L. 93-475, § 10(a)-(d), 88 Stat. 1441; amended Nov. 29, 1975, Pub. L. 94-141, title IV, § 407(a), 89 Stat. 771; Aug. 17, 1977, Pub. L. 95-105, title IV, § 410(a), 91 Stat. 854, set forth provisions respecting death guaranties for certain Foreign Service personnel, prior to repeal by Pub. L. 96-465, title II, § 2205(10), Oct. 17, 1980, 94 Stat. 2160. Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96-465, set out as an Effective Date note under section 3901 of this title. See section 3973 of this title.

Another prior section 14 of act Aug. 1, 1956, was classified to section 170s of former Title 5, Executive Departments and Government Officers and Employees, prior to repeal by Pub. L. 86-707, title V, § 511(a)(2), Sept. 6, 1960, 74 Stat. 800. See section 5922(b) of Title 5, Government Organization and Employees.

**§ 2679b. Prohibition against fraudulent use of "Made in America" labels**

If it has been finally determined by a court or Federal agency that a person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract from the Department of State, pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

(Pub. L. 102-138, title I, § 195, Oct. 28, 1991, 105 Stat. 684.)

**§ 2679c. Prohibition on discriminatory contracts****(a) Prohibition**

(1) Except for real estate leases and as provided in subsection (b) of this section, the Department of State may not enter into any contract that expends funds appropriated to the Department of State for an amount in excess of the small purchase threshold (as defined in section 134 of title 41—<sup>1</sup>

(A) with a foreign person that complies with the Arab League boycott of Israel, or

(B) with any foreign or United States person that discriminates in the award of subcontracts on the basis of religion.

(2) For purposes of this section—

(A) a foreign person complies with the boycott of Israel by Arab League countries when that foreign person takes or knowingly agrees to take any action, with respect to the boycott of Israel by Arab League countries, which section 2407(a) of title 50, Appendix, prohibits a United States person from taking, except that for purposes of this paragraph, the term "United States person" as used in subparagraphs (B) and (C) of section 2407(a)(1) of title 50, Appendix, shall be deemed to mean "person"; and

(B) the term "foreign person" means any person other than a United States person as defined in section 2415(2) of title 50, Appendix.

(3) For purposes of paragraph (1), a foreign person shall be deemed not to comply with the boycott of Israel by Arab League countries if that person, or the Secretary of State or his designee on the basis of available information, certifies that the person violates or otherwise does not comply with the boycott of Israel by Arab League countries by taking any actions prohibited by section 2407(a) of title 50, Appendix. Certification by the Secretary of State or his designee may occur only 30 days after notice has been given to the Congress that this certification procedure will be utilized at a specific overseas mission.

**(b) Waiver by Secretary of State**

The Secretary of State may waive the requirements of this section on a country-by-country basis for a period not to exceed one year upon certification to the Congress by the Secretary that such waiver is in the national interest and is necessary to carry on diplomatic functions of the United States. Each such certification shall include a detailed justification for the waiver with respect to each such country.

**(c) Responses to contract solicitations**

(1) Except as provided in paragraph (2) of this subsection, the Secretary of State shall ensure that any response to a solicitation for a bid or a request for a proposal, with respect to a contract covered by subsection (a) of this section, includes the following clause, in substantially the following form:

<sup>1</sup> So in original. Probably should be "41"—.